

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 115 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SHANTABEN BHOLABHAI PATEL

Versus

DIRECTOR OF MUNICIPALITIES

Appearance:

MR PK JANI for Petitioner No. 1

MS MANISHA SHAH, AGP for Respondents No. 1-2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 01/11/2001

ORAL JUDGEMENT

#. Heard the learned advocates.

#. The petitioner before this Court was elected to be a Councillor of Visnagar Municipality in the year 1995. During her term as Councillor, in the year 1998, she was elected as the President of the Visnagar Municipality (hereinafter referred to as 'the Municipality'). While the petitioner was functioning as the President of the Municipality, the Director of Municipalities, on 26th

October, 1998, issued notice upon the petitioner to show cause why, for the reasons stated therein, she should not be removed from the post of President of the Municipality. The said notice was duly replied to by the petitioner. After receiving the reply given by the petitioner and after affording opportunity of hearing to the petitioner, the Director of Municipalities under impugned order dated 6th January, 1999 ordered the petitioner to be removed from the office of the Municipal Councillor. Feeling aggrieved, the petitioner has preferred the present petition.

#. The impugned order dated 6th January, 1999 is ex facie made beyond the scope of the show cause notice issued to the petitioner and requires to be set aside on this ground alone. As recorded hereinabove, the petitioner was called upon to show cause, why she should not be removed from the office of the President. However, pursuant to the said show cause notice, the petitioner is ordered to be removed from the office as the Municipal Councillor. Thus, the penalty imposed upon the petitioner is far more grave than what was proposed in the show cause notice. In other words, the petitioner has been ordered to be removed from the office of the Municipal Councillor without affording her the opportunity to show cause or to represent against the proposed action. The impugned order is violative of principle of natural justice.

#. In above view of the matter, the petition is allowed. The impugned order dated 6th January, 1999 (Annexure-'H' to the petition) is quashed and set aside. Rule is made absolute. The parties shall bear their own costs.

1st November, 2001. (Ms. R.M. Doshit, J.)

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